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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
THOIP (A Chorion Limited Company),	:	
	:	
Plaintiff,	:	08 Civ. 6823 (SAS)
	:	ECF Case
- against -	:	
	:	
THE WALT DISNEY COMPANY, DISNEY	:	
CONSUMER PRODUCTS, INC. and DISNEY	:	
DESTINATIONS, LLC,	:	
	:	
Defendants.	:	
-----	X	

**DECLARATION OF MATTHEW P. MOORE IN SUPPORT OF  
PLAINTIFF'S MOTION TO EXCLUDE THE PROPOSED  
EXPERT TESTIMONY OF DR. MYRON J. HELFGOTT**

I, MATTHEW P. MOORE, declare, pursuant to 28 U.S.C § 1746, as follows:

1. I am an attorney at Moses & Singer LLP, counsel for Plaintiff, THOIP (A Chorion Limited Co) ("THOIP"). I respectfully submit this declaration in support of Plaintiff's Motion To Exclude The Proposed Expert Testimony Of Dr. Myron J. Helfgott.
2. This Declaration is made upon my personal knowledge.
3. On October 21, 2009, I visited various retail locations in Manhattan including:  
  
Macy's at 151 West 34th Street, New York, New York 10001; JCPenny in the Manhattan Mall,

901 Avenue Of The Americas, New York, New York 10001; and Bloomingdale's at 1000 Third Avenue, New York, New York 10022.

4. Disney character shirts were offered for sale in all three of these locations. On October 21, 2009, I observed and photographed the placement of these shirts in relation to other character shirts or apparel that featured non-Disney cartoon characters.

5. At Macy's, Disney shirts were offered within feet of other branded character apparel, such as Dora The Explorer.

6. Attached as Exhibit 1 are true and correct copies of photographs I took at Macy's on October 21, 2009.

7. At JCPenny, Disney character shirts were stacked alongside and underneath other non-Disney character shirts in a single display.

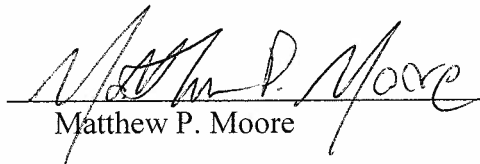
8. Attached as Exhibit 2 are true and correct copies of photographs I took at JCPenny on October 21, 2009.

9. At Bloomingdale's, Disney character shirts were hung immediately behind other non-Disney character shirts on a single display rack.

10. Attached as Exhibit 3 are true and correct copies of photographs I took at Bloomingdale's on October 21, 2009.

11. I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 23, 2009  
New York, New York

  
Matthew P. Moore

# **EXHIBIT 1**





# **EXHIBIT 2**









# **EXHIBIT 3**



